IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 3453 of 2000

Between:

1. A.P. State Road Transport Corporation

Mushirabad, Hyderabad,Rep.by its

Managing Director.

2. The Regional Manager, APSRTC,

Srikakulam.

..... PETITIONERS

AND

1. State Transport Appellate Tribunal,

A.P., Hyderabad, Rep.by its Presiding Officer

2. The Regional Transport Authority,

Srikakulam, Rep.by its Secretary.

3. Smt B.Mahalakshmi w/o Satyam, Bus Owner,

Main Road, Palakonda (Post & Mandal),

Srikakulam District.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, especially in the nature of a writ of certiorari calling for the records relating to the impugned order dated 23.11.1999 made in A.P. No.116 of 1999, State Transport Appellate Tribunal, A.P., Hyderabad setting aside the order dated 23.2.1999 made in item No.30 in Rc.No.4313/A1/98 and directing issue of permit to 3rd respondent of the route Yerkarayapuram to Kotipalli and quash the same as being illegal, without jurisdiction and invalid.

Counsel for the Petitioners: MR. K. SRINIVAS RAO

Counsel for the Respondents 1 and 2: G.P. for Transport Counsel for the Respondent No.3: SMT.M.VINOBHA DEVI

The Court made the following :

ORDER:

This Writ Petition is directed against the order dated 23.12.1999 in A.P. No. 116 of 1999 of the first respondent-Appellate Tribunal.

Third respondent applied to the second respondent herein for grant of a pucca state carriage permit as a mofusil service on the route Yerakanarayanapuram to Kotipalli (via) Gottamangalapuram, Chinnamangalapuram, Palakonda new bus stand and Bhasura.

By an order dated 23.2.1999 vide item No.30, the second respondent rejected the third respondent's application on the ground that the route applied for overlaps the notified route in G.O. Ms. No. 1126 dated 9.11.1987 for a distance of 9.4 KMs and that the grant of a permit, in the circumstances, is prohibited by the conditions of the notified scheme.

Aggrieved by the rejection order, the third respondent preferred an appeal in A.P.No.116 of 1999 before the first respondent and by the order impugned the said appeal was allowed by the first respondent which directed issue of a permit to the 3rd respondent.

The first respondent-tribunal held that the distance between Palakonda and Yerakarayapuram as notified in G.O. Ms. No. 1126 dated 09.11.1987 is only 7.0 kms, and that this distance as notified and published in the gazette cannot be disputed, nor permitted to be disputed. As there is no amendment to the notified scheme by any subsequent notification, the distance between Palakonda to Yarakarayapuram should be considered only as 7 kms as notified and that being so,

as the overlapping is not in excess of 8 kms, the grant of a pucca permit to the third respondent is not be in contravention of the notified scheme in G.O. Ms. No. 1126 dated 9.11.1987, concluded the Tribunal.

The learned standing counsel for the petitioners admits that even as on date there has been no amendment of the notified scheme in G.O. Ms. No. 1126 dated 9.11.1987. A notified scheme is Law and the statement of fact therein as to the distance between two termini expressed in such a statutory instrument cannot be questioned nor de-recognised except by an amendment to such an instrument. In the absence of any such amendment as on date, the order of the Tribunal impugned herein is seen to suffer no infirmity warranting interference in the Writ Petition.

It is contended by the learned standing counsel for the petitioners that pursuant to orders passed in another writ petition W.P. No. 8141 of 1999 dated 29.11.2002 , the concerned authorities along with officials of the APSRTC made a joint inspection/survey of the distance between Yerakarayapuram and Palakonda and submitted a report to the effect that the distance is 9.4 kms, but not 7 kms. This report is now being processed at various levels including at the level of State Government. The fact of the matter however is that as on date, no amendment to the notified scheme has been issued substituting the distance of 7 kms by any other distance.

In the above facts and circumstances, the distance between Palakonda and Yarakarayapuram must be considered as reflected in the notified scheme in G.O. Ms. No. 1126 dated 9.11.1987 and if so considered, it is the admitted position that the grant of a permit to the third respondent herein is not prohibited by any of the conditions in the approved scheme. Therefore, the order of the first respondent-tribunal directing grant of a permit in favour of the third respondent suffers from no infirmity.

The Writ Petition is dismissed.

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22-11-2004

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To

1. The Presiding Officer, The State Transport Appellate Tribunal,

A.P., Hyderabad.

2. The Secretary, The Regional Transport Authority,

Srikakulam.

3. 2 CC to GP for G.P. For Transport, High Court Building, Hyderabad (OUT)

4. 2 CD copies.